

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 1:23-cv-1165
Petitioner,)	
)	
v.)	
)	
EATON CORPORATION,)	
)	
Respondent.)	
_____)	

PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

Petitioner the United States of America petitions this Court for an order enforcing the Internal Revenue Service administrative summons served on Respondent Eaton Corporation (“Eaton”). In support of this Petition, the United States alleges as follows:

Jurisdiction and Parties

1. The Court has jurisdiction over this proceeding pursuant to 26 U.S.C. §§ 7402(b) and 7604(a) and 28 U.S.C. §§ 1331, 1340, and 1345.
2. Respondent Eaton Corporation maintains its headquarters in Cleveland, Ohio, within this district.

The Summons

3. As set forth in the attached declaration of IRS Senior Revenue Agent Keith S. Griffith II (the “Griffith Declaration”), in connection with an IRS civil examination of Eaton’s tax liability for the 2017, 2018, and 2019 years, the IRS is investigating whether Eaton’s sale of certain intellectual property assets to non-U.S. affiliates and subsequent royalty payments to those affiliates were conducted on an arm’s length basis as required by section 482 of the Internal Revenue Code.

4. As part of that investigation, on February 15, 2023, Agent Griffith issued an attested summons (the “Summons”) to Eaton requiring an Eaton representative to appear before Agent Griffith or his designee on March 2, 2023, at 600 North Travis Street, #6350, Houston, Texas, to give testimony and produce for examination certain books and records as described in the Summons. The Summons also informed Eaton that it could produce the requested documents in lieu of providing a representative to testify. A true and correct copy of the Summons is attached as Exhibit A to the Griffith Declaration.

5. On February 15, 2023, IRS Supervisory Tax Law Specialist Dennis K. Warren served the Summons by handing it to Mary Kim Elkins, an Eaton officer. A true and correct copy of the certificate of service is attached as Exhibit B to the Griffith Declaration.

6. Eaton did not provide a representative for testimony on the requested date, nor did Eaton produce the requested documents.

7. On March 13, 2023, the IRS Office of Chief Counsel sent a “last chance” letter informing Eaton that legal proceedings would be initiated to compel compliance with the Summons unless Eaton provided the requested documents and testimony by March 27. A true and correct copy of the last chance letter is attached as Exhibit C to the Griffith Declaration.

8. Eaton did not produce documents by the deadline established in the last chance letter.

9. As of the date of this petition, Eaton has not complied with the Summons.

10. The summonsed documents may be relevant to, and can reasonably be expected to cast light upon, the investigation described in Paragraph 3, above.

11. The books, papers, records, and other data sought by the Summons are not already in the possession of the Internal Revenue Service.

12. All administrative steps required by the Internal Revenue Code for the issuance of the Summons have been taken.

13. No Justice Department referral, as defined by 26 U.S.C. § 7602(d)(2), is in effect with regard to Respondent Eaton Corporation for the years under investigation.

14. In order to obtain enforcement of a summons, the United States must establish that the summons: (1) is issued for a legitimate purpose; (2) seeks information that may be relevant to that purpose; (3) seeks information that is not already within the IRS's possession; and (4) satisfies all administrative steps required by the Internal Revenue Code. *United States v. Powell*, 379 U.S. 48, 57–58 (1964).

15. The attached Declaration of IRS Senior Revenue Agent Keith S. Griffith II establishes the government's prima facie showing under *Powell*.

WHEREFORE, the United States respectfully requests the following relief:

(a) That this Court enter the attached Order to Show Cause directing Respondent Eaton Corporation to show cause in writing why it should not comply with and obey the Internal Revenue Service Summons and every requirement thereof;

(b) That this Court enter an order enforcing the Summons and directing Respondent Eaton Corporation to fully comply with the Summons and each requirement thereof, by ordering Respondent Eaton Corporation to appear before IRS Senior Revenue Agent Keith S. Griffith II (or any other authorized official of the IRS) to give testimony (although the IRS may accept production of documents in lieu of testimony); and by ordering Respondent Eaton Corporation to produce the documents requested in the Summons to Agent Griffith (or any other authorized official of the IRS), with both testimony and document production to be at such time and place as may be set by Agent Griffith (or any other authorized official of the IRS);

- (c) That the United States recover its costs in maintaining this proceeding; and
- (d) That the Court grant such other and further relief as the Court deems proper or justice may require.

Dated: June 9, 2023

Respectfully submitted,

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